MONTANA LEGISLATIVE HISTORY

Chapter 192 1993

Bill H _____ S 84 Original bill & history ___C

H. Committee on State Administration			S. Committee on State Administration		
Hearing Date(s)	Mar 02	✓ C	Hearing Date(s)	Jan 08	✓ C
	Mar 03	✓ C		Jan 12	✓ C
	Mar 04	✓ C			C
		C			C
Date Out	Mar 04	✓ C		Jan 12	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

RETURNED TO SENATE
2/08 SIGNED BY PRESIDENT
2/09 SIGNED BY SPEAKER
2/09 TRANSMITTED TO GOVERNOR
2/11 SIGNED BY GOVERNOR
CHAPTER NUMBER 31
EFFECTIVE DATE: 10/01/93

SB 84 INTRODUCED BY HALLIGAN

REVISE LAW RELATING TO JURISDICTION AND COMMISSIONING OF NOTARIES AND NOTARIZATION OF DOCUMENTS

1/06	INTRODUCED		
1/06	REFERRED TO STATE ADMINISTRATION		
1/06	FIRST READING		
1/07	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/15	2ND READING PASSED	49	0
1/16	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
1/18	FIRST READING		
1/18	REFERRED TO STATE ADMINISTRATION		
3/02	HEARING		
3/05	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/09	2ND READING CONCURRED AS AMENDED	98	0
3/11	3RD READING CONCURRED	98	1
	RETURNED TO SENATE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	50	0
3/17	3RD READING AMENDMENTS CONCURRED	48	0
3/19	SIGNED BY PRESIDENT		
3/21	SIGNED BY SPEAKER		
3/22	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 192		
	EFFECTIVE DATE: 10/01/93		

SB 85 INTRODUCED BY KEATING, ET AL.

RECLASSIFY STATE HAIL INSURANCE PROGRAM AS ENTERPRISE FUND

BY REQUEST OF LEGISLATIVE AUDIT COMMITTEE

1/06	INTRODUCED		
1/06	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/06	FIRST READING		
1/15	HEARING		
1/15	FISCAL NOTE REQUESTED		
1/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/20	2ND READING PASSED	48	0
1/21	3RD READING PASSED	46	2
	TRANSMITTED TO HOUSE		
1/22	FISCAL NOTE RECEIVED		
1/22	FIRST READING		
1/22	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/23	FISCAL NOTE PRINTED		
2/04	HEARING		
2/06	COMMITTEE REPORT—BILL CONCURRED		
2/09	2ND READING CONCURRED	98	1
2/13	3RD READING CONCURRED	92	5
	RETURNED TO SENATE		
2/17	SIGNED BY PRESIDENT		

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 8, 1993, at 10:00 a.m.

ROLL CALL

Members Present:
Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)

Members Excused: None.

Members Absent: Sen. Larry Tveit

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 84, SB 69, SB 76, SJR 6
Executive Action: SJR 6 as Amended, SB 76

HEARING ON SB 84

Opening Statement by Sponsor:

Sen. Mike Halligan, Senate District 29, presented the Uniform Law on Notarial Acts previously presented by Sen. Mazurek who sat on the Uniform Commission. Sen. Halligan does not sit on the Commission. SB 84 would change the notarization portion of the statutes.

Proponents' Testimony:

Garth Jacobsen, representing the Secretary of State's Office, gave written testimony. (EXHIBIT 1)

George Bennett, Attorney for the Montana Banker's Association. Montana Banker's Association represents commercial banks in the State of Montana. Bennett stated the association favors uniform laws because of the flow of negotiable instruments and commercial documents. There is a provision enacted in 1909, Section 1-5-417 that intends to prohibit a notary who is a corporate officer from notarizing his or her own signature, but is unclear in that it seems to prohibit a notary from notorizing a corporate document if the notary is only an officer of the corporation. Bennett would like the committee to clarify this provision.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Fritz asked Sen. Halligan if this bill would make any change in the procedure to have something notarized.

Sen. Halligan said that it would not.

Sen. Fritz asked Mr. Jacobsen if the language could be gender neutral instead of having all notary publics male. Mr. Jacobsen said the language would be given to the committee attorney for his review and he will prepare it in a way that should be presented.

Sen. McClernan asked Mr. Jacobsen to clear up the language in amendment #3. Mr. Jacobsen answered that it was statuatory language and the only change that would occur would be from 3 to 4 years.

Sen. Hockett asked Mr. Jacobsen if under amendments 5 and 6 there was an application fee now. Mr. Jacobsen answered that the fee is $15.00 to process these applications.

Sen. Hockett asked if the fee structure would be reevaluated from time to time. Mr. Jacobsen said the fees would be adjusted based upon cost evaluation. He stated the Secretary of State's office was not out to make money, but to break even.

Sen. Weldon asked Mr. Jacobsen if he had any sense of the cost to implement the changes. Mr. Jacobsen said the cost would be minimal. The cost would include fees for publishing the rules. The cost would be a minor adjustment and would not even justify a fiscal note.

Sen. Weldon asked Mr. Jacobsen about Section 5 governing acts in another jurisdiction. Does this section allow a notary from the State of Montana to take his seal to another state and notarize legal documents in another state? It allows other notaries to bring their seals into the State of Montana.

Mr. Jacobsen answered that Section 5 identifies a notarial act occurring in another state will be recognized in the State of Montana. A Notary in Montana has jurisdiction in Montana.

Mr. Niss asked Mr. Jacobsen if a notary can perform notary acts in another state for a citizen of the State of Montana, as is the situation of military persons stationed in other states but citizens of Montana.

Mr. Jacobsen said the intent is if a person goes into another jurisdiction and starts operating as a notary it would be like a peace officer going into Idaho and trying to operate in that state. They probably wouldn't have the authority to do that. The Uniform Laws people must have considered those concerns. He will research that issue if desired by the Committee.

Sen. Swift noted that amendment 4 appears to give carte blanche authority to the Secretary of State's office to fire someone at any time and in any way he sees fit. It seems quite broad.

Mr. Jacobsen said this is the language that is currently in law and the only reason a person would be decommissioned would be for some action taken to warrant that action. In the past four years there were only 2 or 3 cases where the Secretary of State's office has been notified of fraudulent activity by a notary. This language would only be applied to a very narrow scope of activities. The notaries are bonded and if the insurance company gets the least bit nervous about an individual the company will take away their bond and immediately their commission is revoked.

Sen. Hockett asked Mr. Jacobsen about the increase in fees, from two dollars to fifteen dollars.

Mr. Jacobsen said the $15 is for issuing the certificate. $15 is well within the range of what other states charge. The fee schedule will be put into rule form and it will be directly related to the cost of delivering the service.

Closing by Sponsor:

Sen. Halligan stated the bill has an immediate effective date. The committee may want to look at a July 1 or October 1 date in the law. It is necessary to address uniformity. There are a few issues he will work with legal counsel on before executive action.

ROLL CALL

SENATE COMMITTEE State Administration DATE 1-8-93

NAME	PRESENT	ABSENT	EXCUSED
Jim Barnett	✓		
John Hertel	✓		
Bob Pipinich	✓		
Henry McClernan	✓		
Jeff Weldon	✓		
Eleanor Unruh	✓		
Harry Fritz	✓		
Larry Tuit		✓	
Bob Hockett	✓	✓	
Bernie Swift	✓		

FC8

Attach to each day's minutes

SENATE STATE ADMIN.
EXHIBIT NO. 1
DATE 1-8-93
BILL NO. SB 84

Testimony in Support of SB 84
Presented by Garth Jacobson
Secretary of State's Office
January 8, 1993

Madam Chair and members of the Senate State Administration Committee, for the record I am Garth Jacobson representing the office of the Secretary of State. I appear in support of SB 84 and also request that the committee consider certain amendments to this legislation.

SB 84 is a necessary bill that adopts the Uniform Law on Notarial Acts. The Uniform Laws Commission developed this legislation to insure orderly procedures for notarial acts. It also provides for consistent recognition in Montana of notarial acts of other states and countries. This bill also updates the prescribed standard forms used by notaries. It shortens and removes excessive legalized used in the forms.

This is housekeeping legislation to bring current the law in this area. There are no major changes from the present laws, but it makes the law in this area understandable and more operational.

In addition to the legislation before you, I also request that you consider the following proposed amendments.

Explaination of Amendments to SB 84

The following are amendments to SB 84. The purpose of these amendments is to streamline the process of commissioning notary publics.

Amendment 1. Appointment of notaries by the Secretary of State. Under the present system the notary bond is submitted to the Secretary of State. The office then imputes the pertinent information and prepares the certificate of commission. The office transmits the certificate to the governor for his signature. The Governor then returns the certificate back to the Secretary of State for his signature and mailing. The proposed amendment would make the Secretary of State the officer who commissions the notaries. It would spare the governor (or his aide) from having to sign 15,000 plus certificates. It would also save considerable amount of time and effort by streamlining this government operation. The Governor has indicated to the Secretary of State that he has no object to this change.

Amendment 2. This amendment includes the requirement that notary publics can <u>not</u> be convicted felons as part of the qualification for office. Most other states have this requirement which further insures good character and fitness.

Amendment 3. This amendment changes the term of office from three to four years. It reduces the paperwork and gives notaries an extra year before they need to renew their commission.

Exhibit #1
1-8-93
SB-84

Amendment 4. The amendment makes the adjustment to permit the secretary of state instead of the governor to revoke a notary public commission. This is consistent with amendment 1.

Amendment 5. This specifies that notary publics shall pay an application fee and submit an application in addition to the bonding requirements. Presently there is no process to determine if a person meets the qualifications necessary to serve as a notary. Occasionally a commission is revoked because the person was not a resident in the state for one year. This would require a certain minimum information be submitted to the Secretary of State to determine if the person meets the qualifications.

Amendment 6. This amendment simply gives the Secretary of State's office the rule making authority to set the fees for processing the application and maintaining the records. It is intended that the fees would be commensurate with costs of reviewing the application, preparing the certificate and filing the material.

Amendment 7. This amendment simply adjusts the title to reflect the prior amendments.

For the reasons stated above, I request that you adopt these amendments and that you give SB 84 favorable consideration.

Proposed Amendments

Amendment 1.

1-5-401. Appointment. The ~~governor~~ secretary of state may appoint and commission as many notaries public for the state of Montana as in his judgment may be deemed best.

Amendment 2.

1-5-402. Qualifications - residence. Every person appointed as notary public must, at the time of his appointment, not be convicted of a felony, be a citizen of the United States and the state of Montana for at least 1 year preceding his appointment and must continue to reside within the state of Montana. Removal from the state or conviction of a felony vacates his office and is equivalent to resignation.

Amendment 3.

1-5-403. Term of office. The term of office of a notary public is ~~3~~ 4 years from an after the date of his commission.

Amendment 4.

1-5-403. Revocation of commission. Upon 10 days notice, the ~~governor~~ secretary of state may revoke the commission of any notary public for any cause he may deem sufficient.

Amendment 5.

Exhibit #1
1-8-93
SB-84

1-5-405. Bond and commission. Each notary public must submit an application and give an official bond in the sum of $5,000. The bond must be approved by the secretary of state. Upon approval of the bond, the payment of fees and the filing in the office of the secretary of state of the official oath of such notary public, the ~~governor~~ secretary of state may issue a commission.

Amendment 6.

1-5-408. Fees for filing commission and issuing certificates. The secretary of state shall ~~receive for each certificate of official character issued, with seal attached, $2.~~ set by rule the fees for filing or issuing certificates. The fees shall be commensurate with the costs. The secretary of state shall establish application forms which prescribe the necessary information required in this part. The county clerk of any county in this state shall receive a fee as provided in 7-4-2631 for filing a copy of the commission and certifying to the official character.

Amendment 7.

A Bill for an Act entitled: "An act revising the law relating to commissioning notaries and the notarization of documents: adopting the uniform law on notarial acts; amending sections 1-5-401, 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-408; and repealing sections ***

Statement of Intent. It is the intent of the legislature that the Secretary of State's office adopt rules to set fees commensurate with the costs of reviewing the applications and bonds and preparing certificates of commission. The fees should reflect the cost of maintaining or upgrading the record keeping system used in the filing of the commissions.

The Secretary of State shall prescribe forms that request the necessary information to make proper determination as to the qualifications of persons seeking to become notary publics. This information should include name, phone numbers, residence, business address, age, length of residency in the state, whether that person has been convicted of a felony and any other necessary pertinent information regarding that persons fitness and character.

DATE 1-8-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 84, SJR 6, SB 69, SB 76

BILL NO. SJR-6

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Chuck Wells	MNA	69	✓	
Toots Welch	MAPP	SJR6	✓	
B Mahoney	Equal Opportunity Advocates	SJR6	✓	
Dr. Erik Pratt	Myself	SJR6	✓	
FRANK KROMKOWSKI	Helena SERRAT	SJR6	✓	
Greg EKLUND	MT. Democratic Party			
AMY KELLEY	COMMON CAUSE/MT	69		✓
Garth Jackson	Sec of State	84	✓	
Eric Love	MSA	SJR6	✓	
JUDITH CARLSON	MTCH, N.A.S.W	SJR 6	✓	
SHARON HOFF	MT CATHOLIC CONFER.	SJR 6	✓	
GEORGE BENNETT	MONT. BKRS ASSN	SB84	✓	
Starshine	Helena Quakers	R 6	✓	
Ralph Kelman	MT Cancer Matrix	SJR6	✓	
Mike Fraser	self		✓	
JoAnn Hanson	Church & Society Comm St. Paul's Methodist Church	SJR6	✓	

Bill Watt R6

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Dave Ashley Dept of Admin SB76 support

F10

David Niss answered 6 months or $500.

Sen. Hockett asked who would initiate legal proceedings for the misdemeanor. The Attorney General?

Sen. Vaughn asked who would determine whether they did or didn't and how far would you go with that.

Sen. Pipinich said the candidate would have to report back to the Commissioner and the Commissioner would go from there.

Sen. McClernan asked for a copy of the code before executive action.

Sen. Burnett said 13-35-02 is the code.

Sen. Vaughn asked Mr. Argenbright if more work is required, how would you determine what was actually being done against a candidate.

Mr. Argenbright said he is hesitant to comment since he has not been through the cycle. He said Ms. Colberg did a great deal of mediation. He said it is difficult to legislate morality.

Closing by Sponsor:

Sen. Burnett said "I close."

EXECUTIVE ACTION ON SJR 8

Motion: Sen. Pipinich moved SJR 8 DO PASS.

Discussion:

Vote: Motion CARRIED Unanimously.

EXECUTIVE ACTION ON SB 84

Motion: Sen. Fritz moved to adopt the amendments to SB 84.

Discussion: Sen. Hockett had concerns about the fees for various activities where the agency is allowed to set the amount of fee commensurate with their need to fund whatever they are doing. He is opposed to granting agencies rate making authority.

Sen. Fritz said the alternative is to put the fee into the bill. So every time you want to raise the fee by 50 cents you have to have an act of Legislature which costs $2000 to process. The statement that the fee is commensurate with the cost means that you cannot make money by charging a fee. The fee has to cover the cost of the service only and it's not profit making.

David Niss said the language commensurate with cost is included for the licensing fees of every board contained in title 37, MCA. The amount of money which results from fees is audited by the Legislative Auditor has found that some board have collected too much money. The cost which the board has collected exceeds the cost of processing but in aggregate generally haven't to the level the Department of Commerce expected that they had. There have been some healthy bank accounts developed as a result of that language and the Legislative Auditor has suggested in the final audit documents that result from those audits that the boards reduce the level of fees contained in their rules for that reason. The same process would result here.

Mr. Niss said there is a substantive change to the material that Garth Jacobsen provided for these amendments, page 2, section 14 amendment to MCA 1-5-404. Rather than to allow the Secretary of State to revoke a notary's commission for any cause which the Secretary deems sufficient, we have substituted <u>just</u> cause for that language.

Sen. Weldon asked if there should be a provision for notaries to not be able to notarize for himself.

Mr, Niss said he was not aware of the specific provision which prohibits a notary from doing that but it's more than custom even though he has never seen the statute.

Vote: SB 84 carried 9 to 1 with Senator Hockett voting no.

Motion: Sen. McClernan moved SB 84 DO PASS AS AMENDED

Discussion:

Vote: SB 84 CARRIED 9 to 1 with Senator Hockett voting no.

EXECUTIVE ACTION ON SB 69

Motion: Sen. Burnett moved SB 69 DO PASS.

Discussion:

Vote: Motion failed 9 to 1 with Sen. Burnett voting yes. Sen. Vaughn will carry the adverse committee report.

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 1-12-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

January 12, 1993

MR. PRESIDENT:
We, your committee on State Administration having had under consideration Senate Bill No. 84 (first reading copy -- white), respectfully report that Senate Bill No. 84 be amended as follows and as so amended do pass.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chair

That such amendments read:

1. Title, line 5.
Following: "RELATING TO"
Insert: "COMMISSIONING OF NOTARIES AND TO"

2. Title, line 6.
Following: "SECTIONS"
Insert: "1-5-401, 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-408, 1-5-417,"

3. Title, line 7.
Following: ";"
Insert: "AND"

4. Title, line 11.
Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

5. Page 1.
Following: line 11
Insert: "Statement of Intent
It is the intent of the legislature that the secretary of state adopt rules establishing fees commensurate with the costs of reviewing the applications for and bonds of those persons submitting applications to become notaries public and with the costs of preparing their certificates of commission. The fees adopted by the secretary of state should reflect the cost of maintaining or upgrading the recordkeeping system used in the filing of the commissions."

6. Page 12.
Following: line 3

Amendments to Senate Bill No. 84
First Reading Copy

Requested by Senator Halligan
For the Committee on State Administration

Prepared by David S. Niss
January 11, 1993

1. Title, line 5.
Following: "RELATING TO"
Insert: "COMMISSIONING OF NOTARIES AND TO"

2. Title, line 6.
Following: "SECTIONS"
Insert: "1-5-401, 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-408, 1-5-417,"

3. Title, line 7.
Following: ";"
Insert: "AND"

4. Title, line 11.
Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

5. Page 1.
Following: line 11
Insert: "Statement of Intent
It is the intent of the legislature that the secretary of state adopt rules establishing fees commensurate with the costs of reviewing the applications for and bonds of those persons submitting applications to become notaries public and with the costs of preparing their certificates of commission. The fees adopted by the secretary of state should reflect the cost of maintaining or upgrading the recordkeeping system used in the filing of the commissions."

6. Page 12.
Following: line 3
Insert: "**Section 11.** Section 1-5-401, MCA, is amended to read:
"**1-5-401. Appointment.** The ~~governor~~ secretary of state may appoint and commission as many notaries public for the state of Montana as in ~~his~~ the secretary of state's judgment may be deemed best."
{*Internal References to 1-5-401: None.*}

Section 12. Section 1-5-402, MCA, is amended to read:

"1-5-402. **Qualifications -- residence.** Every person appointed as notary public ~~must~~ may not, at the time of ~~his~~ appointment, be a convicted felon, must be a citizen of the United States and of the state of Montana for at least 1 year preceding ~~his~~ appointment, and must continue to reside within the state of Montana. Removal from the state or conviction of a felony vacates ~~his~~ the office and is equivalent to resignation."

{*Internal References to 1-5-402: None.*}

Section 13. Section 1-5-403, MCA, is amended to read:

"1-5-403. **Term of office.** The term of office of a notary public is ~~3~~ 4 years from and after the date of ~~his commission~~ commissioning."

{*Internal References to 1-5-403: None.*}

Section 14. Section 1-5-404, MCA, is amended to read:

"1-5-404. **Revocation of commission.** Upon 10 days' notice, the ~~governor~~ secretary of state may revoke the commission of any notary public for ~~any~~ just cause ~~he may deem sufficient~~."

{*Internal References to 1-5-404: None.*}

Section 15. Section 1-5-405, MCA, is amended to read:

"1-5-405. **Bond and commission.** Each notary public ~~must~~ shall submit an application and give an official bond in the sum of $5,000. The bond must be approved by the secretary of state. Upon the approval of the bond, the payment of fees, and the filing in the office of the secretary of state of the official oath of ~~such~~ the notary public, the ~~governor~~ secretary of state may issue a commission."

{*Internal References to 1-5-405: None.*}

Section 16. Section 1-5-408, MCA, is amended to read:

"1-5-408. Fees for filing commission and issuing certificates. The secretary of state shall ~~receive for each certificate of official character issued, with seal attached, $2~~ set by rule the fees for filing or issuing certificates. The fees must be commensurate with costs. The secretary of state shall use application forms soliciting the information required by this part. The county clerk of any county in this state shall receive a fee as provided in 7-4-2631 for filing a copy of the commission and certifying to the official character."

{*Internal References to 1-5-408: None.*}

Section 17. Section 1-5-417, MCA, is amended to read:

"1-5-417. Authority of notaries who are stockholders, officers, or employees of corporations. It shall be lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by such corporation, to administer an oath to any other stockholder, director, officer, employee, or agent of such corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments which may be owned or held for collection by such bank or other corporation; provided, it shall be unlawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer, or employee where such notary is a party individually to such instrument~~, either individually~~ or signs the instrument as a representative of such bank or other corporation~~,~~ or to protest any negotiable instrument owned or held for

collection by such bank or other corporation where such notary is individually a party to such instrument.""

{*Internal References to 1-5-417: None.*}

Renumber: subsequent sections

7. Page 13, line 20.

Strike: section 15 in its entirety

Proponents' Testimony:

Beth Baker, Department of Justice, stated the department had requested SB 137 in order to streamline the training system for coroners. She explained the Board of Crime Control currently certifies training for all police officers and has a system in place which could be used well for coroner education. She said the legislation was an efficiency measure and reported the coroners supported the bill.

Ed Hall, Administrator, Montana Board of Crime Control, stated the Board has been keeping track of coroner training records for several years. He said the bill clarifies that the Board, rather than the attorney general, maintains the records. He reported there were 180 county coroners and deputy coroners for whom they track training. He stated there should be no additional cost since the Board is already performing the function. He urged the committee to support the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BARNHART asked **Mr. Hall** whether it was the POST Council which would oversee the coroners' education. **Mr. Hall** confirmed the Police Officers Standards and Training (POST) Council would oversee the training.

Closing by Sponsor:

SEN. GAGE closed by asking whether anyone on the committee would like to carry the bill. **REP. BARNHART** volunteered to carry the bill.

HEARING ON SB 84

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 29, Missoula, introduced SB 84 which revises the laws related to the commissioning of notaries and to the notarization of documents. He explained uniform laws were important in reducing attorney fees and court delays, and for making the function more efficient for the general public. **SEN. HALLIGAN** stated the bill did not affect current notaries. He explained that due to changes caused by international economic development and technologies such as FAX machines, current laws needed to be updated and made uniform.

Proponents' Testimony:

Garth Jacobson, Secretary of State, stated SB 84 was a uniform law on notarial acts and was necessary to update and improve statutes. He reported changes made with regard to the commissioning of notaries: (1) transferring the commissioning function from the governor to the secretary of state; (2) requiring that notaries cannot be convicted felons; (3) changing the term of office from three to four years; (4) allowing the secretary of state to revoke the notary commission; and (5) stipulating that the secretary of state's office will establish application forms and fees. **Mr. Jacobson** stated the bill addressed an important function and urged the committee to give it favorable consideration.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. GALVIN asked **SEN. HALLIGAN** whether individuals were considered convicted felons after having served their sentences. **SEN. HALLIGAN** responded under a deferred sentence, the sentence is stricken from the record. Under a suspended or other sentence, however, it is not stricken from the record.

REP. MASON asked whether an employee could notarize documents for an employer. **SEN. HALLIGAN** reported the Bankers Association had testified during the Senate State Administration hearing and drawn attention to conflicts in the law pertaining to employees notarizing employers' documents. He said the language was changed to allow employees to perform notarial acts for employers except when the employee was a party to the transaction.

REP. DAVIS asked **Mr. Jacobson** to "fill in" the sample forms shown on pages 9-12. **Mr. Jacobson** explained the forms were minimum requirements for notarial instruments; he described the kinds of information which would be used to fill in the forms.

REP. SCHWINDEN asked **Mr. Jacobson** to estimate the fees to be charged. **Mr. Jacobson** said the present fee was $15 for a three-year term and anticipated it would increase to $20 for a four-year term.

REP. MOLNAR asked **SEN. HALLIGAN** why the state would care if a 21-year-old who was convicted of driving under the influence wanted to be a notary. **SEN. HALLIGAN** agreed the requirement set a high standard. **REP. MOLNAR** asked if the requirement was important. **SEN. HALLIGAN** responded that as the state moves into a global economy, confidence in the character of notaries will be increasingly important. **REP. ROSE** agreed with **SEN. HALLIGAN** on the need for high standards for notaries.

Closing by Sponsor:

SEN. HALLIGAN reported **SEN. KEATING** wanted to propose an amendment to allow reciprocity with notaries of North Dakota. He said he would contact **SEN. KEATING** and ask him to offer his amendment for the committee's consideration. He asked the committee to delay action until **SEN. KEATING** had been contacted.

EXECUTIVE ACTION ON SB 137

Motion/Vote: **REP. BARNHART MOVED SB 137 BE CONCURRED IN.** Motion carried 15 to 0 with **REP. WALLIN** absent and **REP. SIMPKINS** voting by proxy.

ADJOURNMENT

Adjournment: 10:26 a.m.

Wilbur Spring
WILBUR SPRING, Vice Chairman

Dorothy Poulsen
DOROTHY POULSEN, Secretary

WS/DP

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 3/2/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR			✓
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. SB 84

DATE 3/2/93 SPONSOR(S) Sen. Halligan

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Garth Jacobsen	Sec of State	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Discussion:

REP. SIMPKINS asked the committee whether members wanted amendments which would allow private donations to be accepted and would include labor and industry on the building sign. The committee agreed to draft an amendment allowing private donations, not to draft an amendment regarding the signing of the building, and to postpone action on the bill.

REP. SCHWINDEN withdrew his motion.

EXECUTIVE ACTION ON SB 142

Motion: **REP. SPRING MOVED SB 142 BE CONCURRED IN.**

Discussion:

REP. SIMPKINS stated one disadvantage to decreasing the number of days for the governor to sign bills at the end of the legislative session was the large number of bills which would require action.

REP. DAVIS contended the governor already had a large number of bills and five days was insufficient during the legislative session. **REP. SIMPKINS** agreed with **REP. DAVIS**, but insisted ten days was a limited time for the number of bills the governor received after the session. **REP. SCHWINDEN** expressed his desire to hear from someone in the governor's office. He said the only problem he had heard of was in terms of new governors having difficulty setting up a system for incoming legislation. He said increasing the time during the session should help with that problem. He suggested by the end of the session the governor has an effective system and knows what legislation to expect. **REP. SIMPKINS** suggested the biggest problem was with appropriations bills and determining the legislature's actions in the last few days of the session.

REP. BARNHART suggested action be postponed and the governor's office be contacted.

REP. SPRING withdrew his motion.

EXECUTIVE ACTION ON SB 84

Discussion:

Garth Jacobson, Chief Legal Counsel, Secretary of State, reported he had talked to **SEN. KEATING** and had prepared amendments for SB 84 which would provide reciprocity agreements with neighboring states. **EXHIBIT 2**

REP. SIMPKINS recommended action be postponed until the proposed amendments were coordinated.

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 3/3/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

SECRETARY OF STATE

STATE OF MONTANA

Mike Cooney
Secretary of State

Montana State Capitol
Helena, MT 59620

Memo

DATE: March 3, 1993

SUBJECT: Border State Reciprocity Amendments to SB 84

FROM: Garth Jacobson, Chief Legal Counsel

TO: Senator Keating and Senator Halligan,

The following are amendments that would permit notary publics commissioned in ND, Wyo, and ID to perform notarial acts in Montana, providing those other states permit Montana notary publics the same authority in their state. I believe these amendments would meet the concerns of Senator Keating and still protect the integrity of SB 84.

Amendments to SB 84

Amendment 1.

Amend: Section 4., Page 5, Line 10

Insert: new subsection (2)

Add: Notarial acts performed within this state under the neighboring state authority as provided in [section __] have the effect as if performed by a notarial officer of this state.

Renumber subsequent subsections.

Amendment 2.

NEW SECTION Notarial acts under other state's authority. (1) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if it is performed anywhere in Montana by a notarial officer of a state bordering Montana if that state grants Montana's notarial officers similar authority in its state.

EXHIBIT 2
DATE 3/3/93
HB SB 84

EXECUTIVE ACTION ON SB 84

Discussion:

SEN. TOM KEATING proposed an amendment to SB 84 which would allow reciprocity of notarial acts with neighboring states. He explained residents of eastern Montana who work in North Dakota or have businesses along the Montana-North Dakota border need to have a reciprocal agreement with North Dakota in order to work as notaries in North Dakota. He explained the amendment establishes reciprocity of notary commissions with neighboring states which allow reciprocity. **EXHIBIT 1**

REP. SCHWINDEN asked **Garth Jacobson, Chief Legal Counsel, Secretary of State,** to describe their position on the amendment. **Mr. Jacobson** responded they fully endorsed the amendment.

REP. SIMPKINS asked **Mr. Jacobson** to describe Montana's liability for notaries. **Mr. Jacobson** explained notaries would be accountable under the state in which they are commissioned. He said he checked the bonding requirements of other states for notaries and found them to be satisfactory. **REP. SIMPKINS** asked **Mr. Jacobson** whether many Montana notaries had their commissions revoked. **Mr. Jacobson** said probably six notaries have had their commissions revoked over the last few years. He explained the notary commission is usually revoked because the insurance company which has issued a bond to the notary has revoked the bond because of questionable actions. **REP. SIMPKINS** asked **Mr. Jacobson** whether notaries must report every notarial act. **Mr. Jacobson** explained notaries were not required by law to report their notarial acts, but as general practice they should maintain records of their notarial acts in order to reduce their liability. He reported most Montana notaries do not keep a record of their acts.

REP. SPRING asked **Mr. Jacobson** to describe an example of an action which would lead to losing a notary commission. **Mr. Jacobson** reported a scheme involving automobile titles in which a notary was fraudulently notarizing forged signatures.

Motion: **REP. ROSE MOVED SB 84 BE CONCURRED IN.**

Motion/Vote: **REP. ROSE** moved SB 84 be amended. Motion carried unanimously. **EXHIBIT 1**

Motion/Vote: **REP. ROSE MOVED SB 84 BE CONCURRED IN AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON SJR 12

Motion: **REP. SQUIRES MOVED SJR 12 BE CONCURRED IN.**

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 3/4/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

HOUSE STANDING COMMITTEE REPORT

March 4, 1993

Mr. Speaker: We, the committee on State Administration report that Senate Bill 84 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Dick Simpkins, Chair

And, that such amendments read: Carried by: Rep. Spring

1. Title, line 5.
Following: "TO"
Insert: "THE JURISDICTION AND"

2. Title, line 8.
Following: "1-5-408,"
Insert: "1-5-415,"

3. Page 2, line 2.
Strike: "10"
Insert: "11"

4. Page 2, line 5.
Strike: "10"
Insert: "11"

5. Page 5, line 8.
Strike: "6"
Insert: "7"

6. Page 5.
Following: line 9
Insert: "(3) Subject to the provisions of [section 5], notarial acts performed within Montana by notarial officers of bordering states have the same effect as if performed by a notarial officer of Montana."
Renumber: subsequent subsection

7. Page 5.
Following: line 12
Insert:
"NEW SECTION. Section 5. Reciprocity of notarial acts. (1)

Committee Vote:

A Montana notarial officer may perform a notarial act in a bordering state if the state recognizes the officer's authority within the state.

(2) A notarial act performed in Montana by a notarial officer of a bordering state has the same effect under Montana law as if the act were performed by a Montana notarial officer, provided that the bordering state grants Montana's notarial officers similar authority within the bordering state."
Renumber: subsequent sections

8. Page 6, line 2.
Strike: "6"
Insert: "7"

9. Page 9, line 6.
Strike: "9"
Insert: "10"

10. Page 9, line 21.
Strike: "8(1)"
Insert: "9(1)"

11. Page 12, line 12.
Strike: "9"
Insert: "10"

12. Page 12, line 15.
Strike: "9"
Insert: "10"

13. Page 14.
Following: line 7
Insert:

"Section 18. Section 1-5-415, MCA, is amended to read:

"1-5-415. ~~Statewide jurisdiction~~ Jurisdiction. ~~The jurisdiction of notaries public shall be coextensive with the boundaries of the state, irrespective of their place of residence within the state. Every~~ A person receiving a commission as notary public ~~shall have~~ has jurisdiction to perform ~~his~~ the person's official duties and acts in every county of the state of Montana irrespective of the person's place of residence within the state. A notary public may perform notarial acts outside Montana pursuant to [section 5]."
Renumber: subsequent sections

-END-

Amendments to Senate Bill No. 84
Third Reading Copy

Requested by Sen. Tom Keating
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 3, 1993

1. Title, line 5.
Following: "TO"
Insert: "THE JURISDICTION AND"

2. Title, line 8.
Following: "1-5-408,"
Insert: "1-5-415,"

3. Page 2, line 2.
Strike: "10"
Insert: "11"

4. Page 2, line 5.
Strike: "10"
Insert: "11"

5. Page 5, line 8.
Strike: "6"
Insert: "7"

6. Page 5.
Following: line 9
Insert: "(3) Subject to the provisions of [section 5], notarial acts performed within Montana by notarial officers of bordering states have the same effect as if performed by a notarial officer of Montana."
Renumber: subsequent subsection

7. Page 5.
Following: line 12
Insert:
"NEW SECTION. **Section 5. Reciprocity of notarial acts.** (1) A Montana notarial officer may perform a notarial act in a bordering state if the state recognizes the officer's authority within the state.

(2) A notarial act performed in Montana by a notarial officer of a bordering state has the same effect under Montana law as if the act were performed by a Montana notarial officer, provided that the bordering state grants Montana's notarial officers similar authority within the bordering state."
Renumber: subsequent sections

EXHIBIT 1
DATE 3/4/93
HB SB 84

8. Page 6, line 2.
Strike: "6"
Insert: "7"

9. Page 9, line 6.
Strike: "9"
Insert: "10"

10. Page 9, line 21.
Strike: "8(1)"
Insert: "9(1)"

11. Page 12, line 12.
Strike: "9"
Insert: "10"

12. Page 12, line 15.
Strike: "9"
Insert: "10"

13. Page 14.
Following: line 7
Insert:

"**Section 17.** Section 1-5-415, MCA, is amended to read:

"**1-5-415.** ~~**Statewide jurisdiction**~~ Jurisdiction. ~~The jurisdiction of notaries public shall be coextensive with the boundaries of the state, irrespective of their place of residence within the state. Every~~ A person receiving a commission as notary public ~~shall have~~ has jurisdiction to perform ~~his~~ the person's official duties and acts in every county of the state of Montana irrespective of the person's place of residence within the state. A notary public may perform notarial acts outside Montana pursuant to [section 5]."

Renumber: subsequent sections